

**LAKE TAHOE BASIN
FRAMEWORK IMPLEMENTATION REPORT
D R A F T**

**APPENDIX D
STAKEHOLDER-DEVELOPED EIP PROJECT
NOMINATION AND SELECTION PROCESS
AND ENHANCEMENTS**

(As submitted to the Study Team by the Lake Tahoe
Transportation and Water Quality Coalition)

Prepared for:
The U.S. Army Corps of Engineers
Sacramento, CA

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SNPLMA Lake Tahoe Restoration Projects Recommendation Process

The Southern Nevada Public Land Management Act (SNPLMA) amendment legislated under section 342 of Public Law 108-108 (November 2003) authorizes expenditures under the SNPLMA special account for Lake Tahoe Restoration Projects. The recommendation process for these projects is designed as a distinct and parallel process to the procedures used to select projects and land acquisitions already established under the SNPLMA. The objective is to recommend projects for the Environmental Improvement Program (EIP) at Lake Tahoe to the Secretary of Interior for approval as part of the Final Recommendation under the SNPLMA beginning in 2004.

The Renewed Charter for the Lake Tahoe Federal Advisory Committee

The existing Lake Tahoe Federal Advisory Committee (LTFAC) Charter shall be renewed primarily for the purpose of reviewing the Priority List under the Lake Tahoe Restoration Act, and developing the Recommendations for Lake Tahoe by the Tahoe Regional Executives (TREX) under the SNPLMA. The renewed LTFAC shall consist of the following representatives:

- Gaming industry
- Local environmental*
- National environmental
- Ski resorts
- North Shore economic/recreation
- South Shore economic/recreation*
- Resort Associations
- Education
- Property rights advocates
- Science and research*
- California local government*
- Nevada local government*
- Washoe Tribe*
- State of California*
- State of Nevada*
- Tahoe Regional Planning Agency*
- Labor
- Transportation*
- Two at-large members

(* Denotes a member of the Tahoe Working Group)

The Tahoe Working Group

The renewed LTFAC shall establish a subgroup called the Tahoe Working Group (TWG), which includes the members of the Lake Tahoe Basin Executive Committee (LTBEC), which receives nominated projects and develops a Preliminary

Recommendations for Lake Tahoe. The TWG is composed of one representative each from the following:

- US Department of Agriculture (Forest Service)
- US Department of Agriculture (NRCS)
- US Department of Interior (Bureau of Reclamation)
- US Department of Transportation (Federal Highway Administration)
- US Department of Defense (Army Corps of Engineers)
- US Environmental Protection Agency
- US Geological Survey
- US Fish & Wildlife Service
- California Tahoe Conservancy
- Nevada Division of State Lands
- Tahoe Regional Planning Agency
- Science and research
- California local government
- Nevada local government
- Washoe Tribe
- Business representative
- Environmental representative
- Transportation representative

The Tahoe Regional Executive Committee

The existing TREX (established pursuant to Executive Order 13057, dated July 26, 1997) will serve as the advisory body for reviewing and determining the priorities for the Recommendations for Lake Tahoe. The TREX will transmit their Final Recommendations for Lake Tahoe expenditures from the SNPLMA Special Account funds to the SNPLMA Executive Committee (Executive Committee). The Executive Committee will include the Recommendations for Lake Tahoe in its development of the Final Recommendation that the Executive Committee sends to the Secretary of Interior for her/his decision regarding expenditures under the SNPLMA. The TREX is composed of each agency's Regional Director or Manager as listed below:

- USDA Forest Service
- USDA Natural Resources Conservation Service
- Environmental Protection Agency
- U.S. Department of Transportation
- U.S. Geological Survey
- U.S. Army Corps of Engineers
- Bureau of Reclamation
- Department of Interior, Bureau of Land Management
- US Fish & Wildlife Service

Lake Tahoe Science Advisory Group

The Tahoe Science Advisory Group (TSAG) is formed based on a formal Memorandum of Understanding between the Tahoe Regional Planning Agency (TRPA), the University of California at Davis, the Desert Research Institute, University of Nevada at Reno, United States Geological Survey and USDA Forest Service Pacific Southwest Research Station. The primary focus for the TSAG is to prioritize research, monitoring, evaluation and outreach supporting Tahoe Basin management goals.

Nomination of Lake Tahoe Restoration Projects

Parallel with the SNPLMA nomination process, the TWG receives nominated projects, which must have all required documentation as outlined in the Nomination Package Requirements for Lake Tahoe projects provided in Appendix J.

The minimum standards for nominated projects for Lake Tahoe considered by the TWG are that the projects (1) are responsibilities of the federal government in the EIP (which may be part of a larger project that involves non-federal agencies), and (2) have a willing and ready federal sponsor that confirms that a project has been programmed through a federal interagency EIP management unit that follows the objective and basic implementing measures described in Appendix K. The Forest Service submits its agency's projects to this interagency management unit from the Priority List required under the Lake Tahoe Restoration Act.

Selection of Projects for Lake Tahoe

The TWG will consider nominated projects based primarily on the general guidance set forth in the EIP, and further guided, as needed, on the following considerations:

1. Timing
 - a. Urgency for action
 - b. Readiness
2. Fiscal Considerations
 - a. Comparative cost/benefit analysis
 - b. Level of nonfederal contribution and partnership in funding, design, construction, operation, and maintenance (applicable only for partnership type projects that involve leveraging funds between agencies)
 - c. Funding and operational capacity to operate/maintain desired improvement
3. Support
 - a. Breadth and depth of support from federal, state, local stakeholders
 - b. Capacity and authority of implementing agency to perform (including operation and maintenance)
4. Adaptive Management Considerations
 - a. Anticipated impacts of the proposed projects on environmental improvements

- b. Certainty of the impacts of the proposed projects
- c. Risk to the environment from unintended impacts or failure of the proposed projects
- d. Applicability of project monitoring to adaptive management guidelines

The existing Lake Tahoe Science Advisory Group (SAG) will advise the TWG on the adaptive management considerations described under item 4 above. The SAG will identify those nominated projects that provide the best opportunities for improving the effectiveness of environmental restoration activities through field monitoring and research activities. The SAG will develop and forward this information in a report to the TWG. The TWG will use this report in developing the list of projects to be included in the Preliminary Recommendation Package.

Science, Research, and Monitoring. To effectively inform restoration activities within the Lake Tahoe Basin in an Adaptive Management Framework, the research community must be able to report on the effectiveness of previously implemented restoration projects based on available data and in developing a research plan for the Basin. To accomplish this, a Research Consortium will be proposed in the form of a Lake Tahoe project for administering research and monitoring activities within the Basin. It is recommended that this Research Consortium report directly to the TWG.

Assembly of the Preliminary Recommendation for Lake Tahoe

The TWG prepares the Preliminary Recommendation Package, which includes all of the recommended projects, costs estimates and allowable expenses, and funding levels for the Lake Tahoe expenditure categories, taking into account the projected balance of the SNPLMA Special Account.

The Preliminary Recommendation Package includes one list of the primary projects (Primary Category) that total the amount of funding being requested to the Secretary in a given round, and a second category (Secondary Category) of projects that are funded in the event that an approved primary project becomes infeasible or if actual costs are lower than estimated costs. The Final Recommendation to the Secretary shall specify a certain total funding amount for the Lake Tahoe projects included in the Primary Category, and allow for the flexibility necessary to replace projects between the Primary and Secondary Categories for Lake Tahoe Restoration Projects.

The anticipated amount for funding recommendations from the SNPLMA Special Account for the Lake Tahoe projects is expected to be approximately \$37.5 million annually until the amount allocated in accordance with section 342 of P.L. 108-108 is expended. In allocating each round of funding among federal agencies for Lake Tahoe, if available, the Forest Service receives a minimum allocation of \$20 million, which includes any congressional earmarks, but would be in addition to funds allocated for Santini-Burton land acquisition and erosion control purposes to other federal agencies. All projects that are funded by approval shall come first from the Primary Category and then, if funds are still available, to projects in the Secondary Category.

Of the amount recommended for approval for Lake Tahoe, a general guideline of approximately 10% of the overall funding for Lake Tahoe projects in a given round will be directed towards monitoring and analysis of the effectiveness of restoration projects and attainment of environmental threshold standards. The amount of funding necessary for monitoring and analysis may vary from year to year, dependent upon the current state of the science within the Tahoe Basin and the types of proposed projects.

Of the amount recommended for approval for Lake Tahoe, additional funds for each project may be reserved as contingency funding for unexpected project cost overruns.

Review of the Preliminary Recommendation for Lake Tahoe

The TWG or the LTFAC shall conduct a public hearing to review the Preliminary Recommendation Package. In addition, the LTFAC shall provide the Preliminary Recommendation to the congressional delegation for input prior to the preparation of the Final Recommendation for Lake Tahoe.

The LTFAC will request that administrative staff with the Forest Service (see below) to prepare the Final Recommendation for Lake Tahoe for its review based on the Preliminary Recommendation, minutes of the public hearing, and input from the congressional delegation. The LTFAC role is to incorporate the input that is received regarding the nominated projects along with its own views, and to reconcile the nominated projects with the available funding. The LTFAC will also be responsible for assuring that the projects included in the Lake Tahoe Restoration Projects Package maximize the use of all available funding prior to recommending SNPLMA funds being used. For example, the acquisition of environmentally sensitive land should come, first, from other sources, such as Section 4 of SNPLMA, Santini-Burton, and the Land and Water Conservation Fund, whenever possible.

Written Comment Period of the Final Recommendation for Lake Tahoe

The Final Recommendation for Lake Tahoe will be subject to a 30-day public written comment period prior to its consideration by the TREX. This comment period may be conducted over the Internet. The administrative staff with the Forest Service will provide a summary of the comments to the TREX along with the Final Recommendation for Lake Tahoe.

Review of the Final Recommendation for Lake Tahoe

The TREX will review their Final Recommendation for Lake Tahoe and the written comments before it is sent to the Executive Committee for its consideration and inclusion into the Final Recommendation that is transmitted to the Secretary for approval.

Program Implementation of the Final Recommendation for Lake Tahoe

Once the Secretary approves the SNPLMA Final Recommendation by decision, each sponsoring federal agency for Lake Tahoe will be responsible for implementing their respective projects.

Reprogramming. The approved funding available for Lake Tahoe projects in each SNPLMA round may be reprogrammed from the Primary Category to the Secondary Category in the event that a project(s) in the Primary Category becomes infeasible or actual costs are less than estimated costs. In such event, the federal interagency EIP management unit shall notify and present the issue to the TREX for final approval.

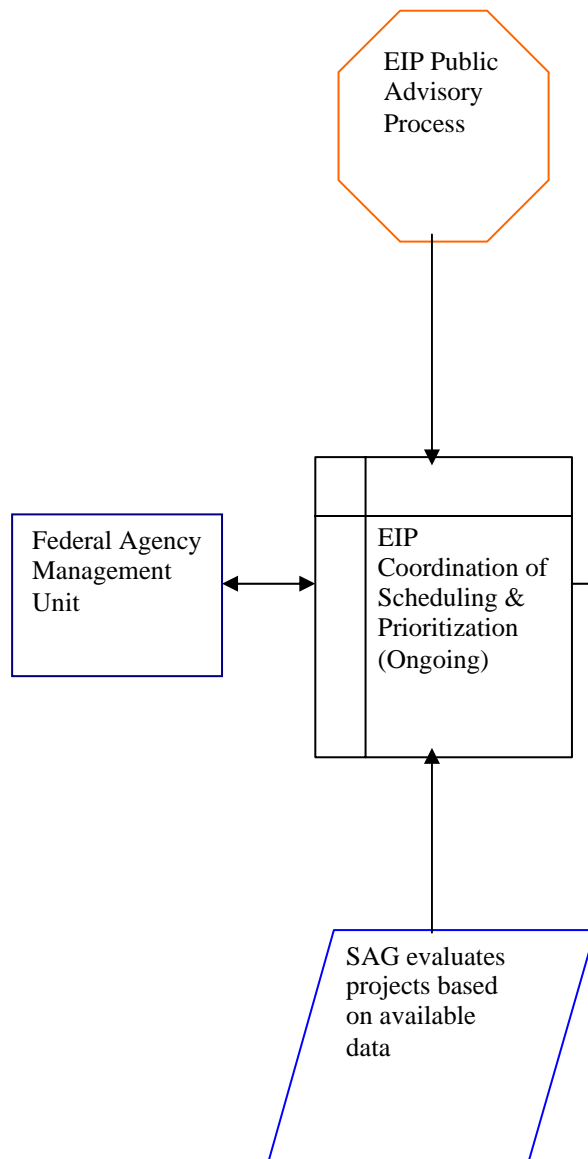
In cases where costs exceed estimates in the Final Recommendation for Lake Tahoe, the overall approved funds from the current approved funds or future rounds may be made available for contingency purposes. Any funds that continue to be available shall be carried over into the next round of approvals for Lake Tahoe Restoration Projects. If circumstances warrant, funding for cost overruns for Lake Tahoe Restoration Projects may be requested from the Special Account Reserve in accordance to section 342 of Public Law 108-108.

Administration and Support. Program and implementation responsibilities will be under the BLM oversight as authorized in the SNPLMA. The responsibilities for administration and financial management of SNPLMA funds approved for Lake Tahoe will be the BLM in accordance with Section 4(e) of the SNPLMA.

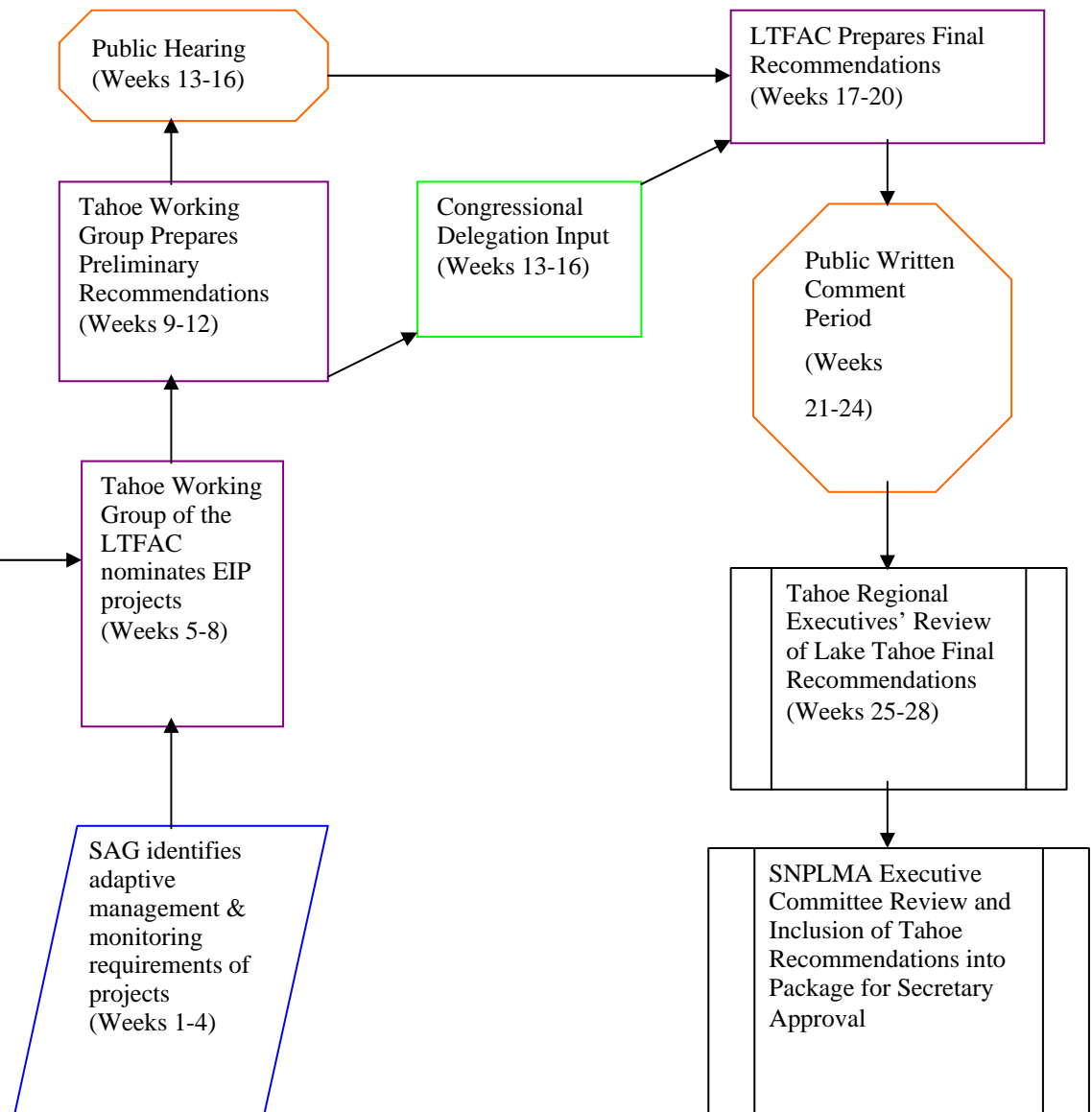
The BLM would consider contracting with the Forest Service or others, if authorized, to provide oversight and administrative functions which may include, but not be limited to:

- Administer and support the TWG and LTFAC by organizing meetings, preparing reports, facilitating the development of the Preliminary Recommendation Package and Lake Tahoe Restoration Projects Package and other administrative needs of the TWG and LTFAC
- Organize the TREX review
- Administer the public comment period, including any notice requirements, for the Lake Tahoe Restoration Projects Package, and ensure its timely delivery to the TREX and subsequent submittal to the Executive Committee for the Final Recommendation
- Coordinate and consult with the LTFAC, Tahoe Regional Planning Agency, Lake Tahoe Transportation and Water Quality Coalition, States of California and Nevada, federal agencies and other parties interested in the use of Tahoe SNPLMA funds

EIP Management System



Tahoe's SNPLMA Project Recommendation Flow Chart



Tahoe Federal EIP Management

The SNPLMA funds, along with the annual federal appropriations, must be part of an accountable, organized, and efficient federal portion of the EIP that is coordinated with the EIP projects that non-federal agencies are implementing. To that end, the Coalition has worked closely with the Forest Service, EPA, and the Corps to design and support a Federal Agencies EIP Management System described at the end of this section.

There are at least three purposes for this system. One is to provide a resource for federal implementing agencies to coordinate their programs most effectively. This will be accomplished by developing and maintaining a master schedule of projects based on input provided by each agency regarding their respective program plans, opportunities, needs, capacities, and constraints. Ideally, this resource will prove to be sufficiently valuable for other, non-federal, agencies to choose to participate. Two, is to provide a one-stop mechanism for determining project status based on a common set of inputs from the implementing agencies. Three, is to facilitate a rational and informed nomination process for SNPLMA. As a result, when the TWG receives nominated projects, they will have already been reviewed and tentatively scheduled through the management system.

A Federal Agencies EIP Management Unit (FAMU) will implement the Federal Agencies EIP Management System. The FAMU will serve as an advisory body to the TWG, in place of the subgroups that are currently used for implementing SNPLMA. FAMU will be an extension of the activities that the SNPLMA field office located in Las Vegas currently provides.

The FAMU would include personnel from TRPA and the federal agencies that elect to participate in the Federal Management System. These liaisons would be joined by a Team Leader and an expert in program management who, together would not be aligned with any single participating agency but would be responsible to them all. The scope of services of the FAMU would be to develop and implement the scheduling, coordinating, and project status activities described in the Federal Agencies EIP Management System. In that respect, the activities of this unit would be different than the administration of SNPLMA by the Forest Service, which will deal primarily with the facilitation of the TWG and the contracting, accounting, and reporting requirements of SNPLMA.

Senior management from the participating agencies will direct the FAMU. This board will be responsible for the hiring of the Team Leader and Program Management expert, as well as overseeing the implementation of the management system.

A number of issues related to the FAMU must be addressed that extend beyond the Framework Study. One, it must be determined whether it would be more effective to locate the unit at TRPA, which has space and is responsible for the EIP document or, perhaps, the Forest Service, which is responsible for the administration of the Tahoe SNPLMA. Two, the form of organization that could most effectively manage such a process requires additional research and consideration. Such an entity may be a modification to the existing federal partnership to include TRPA and funding for staff to

implement the federal program management system. Three, the management system must be implemented so that the state implementing agencies, which currently have successful programs and which are accountable to their respective state governments, are not significantly compromised. In fact, the Coalition would hope that just the opposite happens: the federal EIP management system is so successful that non-federal agencies elect to participate. All three of these issues, and others, require further refinement, which the Coalition hopes can be addressed in the future.

The costs necessary to facilitate the FAMU include the Team Leader and program management expert, as well as technological and basic office support. Operating costs for the FAMU may be approximately 1-2% of the SNPLMA funding. Accounting issues prevent simply including the cost of facilitating the FAMU out of each federal project nominated for SNPLMA funding. For the near term, it may be necessary to use available grant funding for this purpose. However, the ongoing costs will require a more stable source of funding, such as the funding allocated for Tahoe out of SNPLMA.

Leadership for the management of the FAMU is most properly the role of the agencies that elect to participate in the system. Initiation of the FAMU may require execution of an interagency MOU among participating agencies. The MOU would include a description of roles and duties of FAMU members, as well as project team roles and duties, costs, and minimum level of information flow expected from signatory agencies. Such an agreement should also include the objectives and implementing measures described below.

Implementation of actual EIP projects, including science and research, is fundamental to successful basin restoration. Comprehensive management and coordination at a program level will provide benefits for Federal and non-Federal programs. However, it is essential to recognize that classic program management is unlikely to be successful in implementing the EIP for a number of reasons. For example, the classic form normally includes a level of control that is not feasible at Tahoe due to the diversity of implementing agencies, each of whom are accountable to their own hierarchies. Rather, a successful program management of the EIP must be an adaptation of classic program management that focuses on collaboration of willing participants focusing on the scheduling and prioritization of projects.

With that objective in mind, the Coalition along with the Tahoe Regional Planning Agency, Forest Service, EPA, and the Corps agree that the following objectives and implementing measures establishes the foundation for such a system.

Programming and Scheduling

- Combine projects to take advantage of economies of scale in the planning, construction and procurement process within each federal agency, when possible
- Establish a collaborative EIP prioritization process based on available scientific analysis, as well as each agency's program needs and capacities. This collaboration is intended to allow each agency to plan and perform its respective

responsibilities and projects in a manner and sequence that benefits the balance of the program

- Use a GIS-enhanced program master schedule to improve the planning, implementation, and monitoring of projects
- Maintain a continually updated near (2 year) and long term (duration of SNPLMA) plan to ensure orderly sequencing of projects, funding, and identification of respective implementing agencies based on available and projected capacities (see Resource Inventory below). These plans will have different degrees of specificity based on their duration and uncertainties.
- Provide the programming and scheduling, as described above, to the Forest Service's administration of the SNPLMA Tahoe program. The objective is to ensure that the SNPLMA selection process has consistent information regarding EIP projects that may be nominated for each respective round of funding
- The FAMU will assure that the documentation necessary for project nomination is complete for each project.

Fiscal Coordination

- Unify reporting of SNPLMA and appropriated expenditures and results using a common language, format, and methodology, etc.
- Identify and coordinate opportunities to leverage and integrate potential project funding sources

Resource Inventory/Project Support

- Inventory sponsoring agencies' resources in order to (1) develop a capacity matrix (administrative, fiscal, labor, skills, authority, project management software systems, political/community support, etc) and (2) coordinate identified training needs of each agency
- Provide a forum/system for resource sharing by sponsoring agencies. Coordinate projects with agencies by combining the project prioritization process, scopes of work, master schedule, and capacity matrix
- Manage macro information systems that track the planning and current activities of agencies implementing EIP projects
- Establish a reporting procedure that facilitates coordination for capital programming and implementation. The reporting may include items that agencies can feasibly provide dealing with capacities, constraints, opportunities, and project status.
- Organize public outreach, education, and media in support of the agencies' efforts to implement the threshold programs
- Identify and encourage implementation of projects that have no federal sponsor
- Facilitate integration of project delivery process, including permitting

Stakeholder Team-Developed Federal Agency Management Unit

Background: Although the Lake Tahoe Restoration Act deals primarily with the Forest Service, which owns most of the land around Tahoe, other federal agencies must play a significant role if the federal government is to meet its obligations under the EIP. No fewer than eight federal agencies have responsibilities under the EIP. Each of these agencies has their own programs, capabilities, opportunities, and capacities. Each of them receives funding from a wide array of sources which, together, means that federal agencies as a whole receive funding from dozens of sources each year. The Tahoe amendment to SNPLMA is unique in that it makes funding available to multiple federal agencies that enter into a cooperative agreement with the Department of Agriculture.

Problem: The number of federal agencies involved in the EIP, and the variations in their respective language, programs, and capacities, present a major challenge in coordinating all of their projects over the short and long term. Presently, there is no formal organization or mechanism to ensure that all of their projects are synchronized in a manner that provides the most efficiency for the funds that are available. It is essential that a management unit be established that meets the objectives and basic implementing measures that key federal agencies agreed to, which are described in Section D. It may be possible that grant money is available from one source or another to help create this Unit. However, an ongoing management Unit must receive funding on a programmatic basis. Because of the multi-agency approach that is necessary to facilitate a comprehensive federal program management system, it is difficult to identify funding from a single agency that could meet this need.

Because of its unique authority to fund multiple federal agencies, SNPLMA could provide this source of funding. However, BLM has raised the question of whether that Act currently authorizes the use of its funds for program management.

Solution: Authorize the use of Tahoe SNPLMA funds to provide ongoing program management that meets the objectives described in Section D.

Include in the next appropriations bill or other relevant authorizing legislation report language encouraging each federal agency that is implementing the federal projects under the EIP to participate in the Unit. This will require similar language in a number of different bills

U.S. Army Corps of Engineers Clarification of Use of Tahoe SNPLMA Funds

Background: Last year, Congress amended the Southern Nevada Public Lands Management Act (SNPLMA) to provide funds for environmental restoration projects at Lake Tahoe. These projects are part of an ambitious Environmental Improvement Program that depends heavily on key federal agencies to join with state and local agencies and organizations to implement approved projects. Each participating federal agency brings its own qualifications to the effort, including the Corps. Presently, the Corps uses appropriated funds through its existing authorized programs to deliver approved projects as best as it can. The SNPLMA funds are not appropriated. The use of these funds is subject to a project nomination and selection process agreed to by the BLM, which administers all SNPLMA funds, provided under an Implementation Agreement. The BLM has its own stringent requirements for project reporting and accounting that are also spelled out in that same agreement.

Problem: SNPLMA does not reference, nor provide, any specific guidance on how the Corps executes work at Lake Tahoe using SNPLMA funds. Using the Economy Act (31USC1535) as a basic authority, the Corps would then be limited to performing SNPLMA work with Corps staff or by contract, but could not use grants, reimbursements or interagency agreements. These other mechanisms are necessary for the Corps to use if it is to participate in a meaningful and efficient manner that is consistent with the SNPLMA and the Implementation Agreement.

Request/Solution: We are requesting that the following clarifying language be included in the first appropriate legislation that Congress considers in order to assure that the Corps is able to use the Tahoe SNPLMA funds as effectively as possible: The Secretary may provide assistance to execute the Federal share of Lake Tahoe Environmental Improvement Program project costs using funding from the Southern Nevada Public Lands Act. Such assistance may be in the form of grants, reimbursements including reasonable costs of project initiation, or through local cooperation agreements with non-Federal partners.

**U.S. Environmental Protection Agency
Lake Tahoe Participation in EPA Section 106 Program**

Background: For five years now, the Tahoe Regional Planning Agency (TRPA) has repeatedly attempted to use the Section 106 Interstate Grant Program under the Federal Water Pollution Control Act to help implement the Environmental Improvement Program for Lake Tahoe. This grant program was established in 1972 specifically for unique interstate entities such as TRPA. There are six entities currently using this program.

Problem: EPA has resisted our attempts to participate in the Section 106 program based on two concerns. First, EPA contends that since TRPA has historically used funding under Section 208, which is for regional planning commissions, that Section 106 is not available since it is for interstate agencies. Nothing in the law suggests that these two programs are mutually exclusive. Since TRPA is both a regional and bi-state agency it should reason that it should be eligible for both programs.

Second, EPA has interpreted Section 106 to exclude any agency, regardless of how well it meets the criteria and purpose that Congress established for the program, that did not apply within 120 days after October 18, 1972.

Solution/Request: Nothing in the law suggests that eligibility in the Section 106 program is mutually exclusive with eligibility in the Section 208 program. Since TRPA is both a regional and bi-state agency it stands to reason that it should be eligible for both programs. Furthermore, given the extremely small class of interstate commissions that are eligible for this funding regardless of the application deadline, we request that the TRPA be eligible to participate in the Section 106 program, as it would have been able to do on the day that Congress passed the legislation. The following language would provide this authority:

“The Tahoe Regional Planning Agency, an interstate agency as defined by Section 502 of the Federal Water Pollution Control Act and whose bi-state compact was revised by Public Law 96-551 in 1980, is hereafter eligible for Section 106 grants to interstate agencies, notwithstanding paragraphs (d) and (f), under said Act.”

**U.S. Environmental Protection Agency
Clarification of EPA Competition Requirements for
Tahoe SNPLMA Funds**

Background: In order for the Lake Tahoe SNPLMA projects to be considered in the current round of SNPLMA funding (i.e., the Lake Tahoe projects will be included in the final SNPLMA project recommendations package which is forwarded to the Secretary of Interior for approval in June), the basin stakeholders agreed to use the Lake Tahoe Federal Advisory Committee (LTFAC) federal budget recommendations for FY04 as the initial list of projects to be nominated. The LTFAC is chartered under the USDA and was directed to advise the Lake Tahoe Federal Partnership on the implementation of federal environmental programs and projects at Lake Tahoe. The LTFAC develops these recommendations in consultation with the federal agencies and all of the LTFAC meetings are noticed in the federal register and open to the public.

That same agreement establishes the process for all federal agencies that seek funds from SNPLMA for Tahoe projects in future years. For example, all projects will be required to go through a program management process that will produce a master schedule of all federal agencies' projects at Tahoe. This schedule will take into account each agency's respective programs and capacities, as well as those of the other participating agencies. Those projects that are able to meet the requirements of this scheduling process are then eligible for nomination. The nomination process then involves further review by a subcommittee of the LTFAC, the public, the Tahoe Regional Executives, and, finally, the Secretary of the Interior.

This year, BLM intends to pass the Tahoe funds to EPA via an Interagency Agreement (IAG) so that EPA can award the grants under its existing authorities. In future years, BLM and USFS plan on issuing a 'Notice of Availability' for all the projects, some of which EPA would eventually award as grants.

Problem: Some of the nominated grant projects may not lend themselves to competition. For example, one project would fund the Lake Tahoe TMDL, which is being developed by the states of California and Nevada. Another project would fund the Tahoe Integrated Information System, which is being developed by the Tahoe Regional Planning Authority and is similar to the Chesapeake Bay information management system.

Solution/Request: Our request is for Congress to provide EPA with the guidance necessary to determine that projects funded through SNPLMA for Tahoe be exempt from competition, much like the Chesapeake Bay grant program, or that the process agreed to by BLM and all of the federal agencies involved in implementing Tahoe SNPLMA projects satisfies any applicable competition requirements.

**Bureau of Reclamation
Lake Tahoe Regional Wetland Development Program
Request for Clarification**

Background: The U.S. Bureau of Reclamation (BOR) has received congressional appropriations for the 2002 and 2003 fiscal years. These monies have been well spent on improving the Lake Tahoe Basin.

The authority under which the BOR entered into Federal assistance grants in 2002 was the Fish and Wildlife Coordination Act of 1934 (Public Law 85-624, 16 U.S.C., 661 et seq.). This authority allows assistance to private, state and other federal agencies for the benefit of fish and wildlife species and their habitat.

The 2003 Federal assistance grants were authorized in the Consolidated Appropriations Resolution (Public Law 108-7, Consolidated Appropriations Resolution 2003), which provided:

That the Bureau of Reclamation is authorized hereafter to negotiate and enter into financial assistance agreements with public and private agencies, organizations, and institutions for activities under the Lake Tahoe Regional Wetlands Development Program: *Provided further*, That the costs associated with such activities will be nonreimbursable.
(117 STAT. 144 PUBLIC LAW 108-743 USC 2241.—FEB. 20, 2003)

Problem: Currently the “Lake Tahoe Regional Wetlands Development Program” does not have a statutory definition, which leaves the Bureau without clear congressional guidance as to how the funds under this program may be expended.

Solution/Request: The Lake Tahoe Transportation and Water Quality Coalition, along with the Tahoe Regional Planning Agency, are requesting that Congress provide a statutory definition to the “Lake Tahoe Regional Wetland Development Program” that clarifies that funds may be used for program needs in the Lake Tahoe Basin. These needs include design and implementation of projects to benefit fish, water quality, wildlife, riparian areas, vegetation and lake habitats. In addition, a critical need identified in the USACE Lake Tahoe Framework Study is coordination of projects by different federal agencies to assure cost effectiveness and efficiency between projects. The coordination of the projects into a cohesive, cross agency framework would assist in timely implementation of projects funded from both the Southern Nevada Public Lands Management Act and future congressional appropriations.

We are requesting that the following clarifying language be included in the first appropriate legislation that Congress considers in order to assure that this critical coordination begin as soon as possible:

16 USC Sec. 668

TITLE 16 - CONSERVATION

CHAPTER 5A - PROTECTION AND CONSERVATION OF WILDLIFE

SUBCHAPTER I - GAME, FUR-BEARING ANIMALS, AND FISH

Sec. 668. Lake Tahoe Regional Wetlands Development Program

-STATUTE-

That the Bureau of Reclamation is authorized hereafter to negotiate and enter into financial assistance agreements with public and private agencies, organizations, and institutions for activities in the Lake Tahoe Basin to assist rare fish species; rare wildlife species; native vegetation; the habitats that support fish, wildlife and vegetation, including riparian areas and lake habitat; and to support the coordination of the projects within the Lake Tahoe Restoration Act (Public Law 106-506 114 STAT. 2351) into a cohesive program.

Department of Transportation Transportation Enhancements

Background: TEA-21 provided that in addition to the typical MPO funds made available to the TMPO, that “not more than 1 percent of the funds allocated under Section 202 (Federal Lands Highway Program) may be used to carry out the transportation planning process for the Lake Tahoe region.” PL 96-551 authorizes TRPA’s adopted Environmental Threshold Carrying Capacities, and its Environmental Improvement Program that supports the Threshold Standards, which further describes the financial responsibilities of the Federal Governmental, California, and Nevada, as well as local public and private partners.

Problem: The intent of this provision has not been fully realized. The amount of funds provided and the definition of what is considered eligible planning have been limited administratively. The existing administrative interpretation of the TEA-21 language does not provide the TMPO, NDOT or Caltrans the ability to use the Federal Lands Highway Program as was originally envisioned. Rather, the Central Federal Lands Highway Division of the FHWA insists that the 1% PLH funds can be used only for “non-project-specific activities”. This program, if not interpreted so narrowly, could serve as one of the most significant funding vehicles for meeting the Federal commitment to Lake Tahoe directed by the Clinton administration in 1997, and for meeting the mandates and responsibilities set forth in PL 96-551, the Tahoe Regional Planning Compact.

Solution: Provide clear authority for TRPA, TMPO, Caltrans, and NDOT to use Tahoe’s 1% PLH funds to conduct project specific activities, including project planning, site assessment, environmental studies, preliminary design, and construction. In each activity described above, it should be made clear that the authority includes work by the applicable agency staffs, as well as consultants retained by each of them for such purposes, and cooperating partnership organizations, including, but not limited to, Lake Tahoe’s two transportation management associations.

**U.S. Forest Service
Special Area Designation**

Problem: The LTBMU designation does not lend itself to the type of stature and visibility necessary to assure Tahoe of a reliable source of funding.

Solution: Elevate the status of Tahoe by designating it as the Lake Tahoe National Scenic Recreation Area.

U.S. Forest Service SNPLMA Administration

Background: The Tahoe amendment to the SNPLMA designates the Department of Agriculture and, by extension, the Forest Service, as the lead agency to implement the opportunities and responsibilities under the Act. These responsibilities include extensive reporting and accounting activities for selecting the projects and accounting for their expenditures.

Problem: The LTBMU does not have the funding necessary to provide the extensive reporting necessary under SNPLMA. This funding is part of each project, and could theoretically be built into the cost of each project. However, this process lead to its own accounting and administrative problems.

Solution: Establish a discrete line item under SNPLMA for the administration of the Tahoe program as a whole.

U.S. Forest Service Renew LTFAC Charter for SNPLMA

Background: The Implementation Agreement for SNPLMA describes the process for selecting projects for funding under that Act. The process that the Coalition developed along with its partners included a Tahoe Working Group that is similar to the entity that helps recommend projects in Southern Nevada under the same Act. The Tahoe Working Group is made up of representatives from six federal agencies, state and local government, the Washoe tribe, and the private sector. Over the last five years, the Lake Tahoe Federal Advisory Committee (LTFAC) (established by Executive Order 13057), has developed an annual package of federal projects, which it has sent to the Administration for consideration. The process for developing this package has entailed federal agencies in the basin providing information related to projects under consideration by the LTFAC over the course of a number of public meetings. The term of the LTFAC is due to expire in June, 2004.

Problem: The U.S. Forest Service has determined that the Tahoe Working Group would violate the Federal Advisory Act.

Solution: Rather than allow the LTFAC to expire, it should be renewed. The members would consist of those representatives on the Tahoe Working Group. The charter would be amended with a new purpose specifically to carry out the functions of the Tahoe Working Group.